

# Calendar No. 537

115TH CONGRESS  
2D SESSION

# S. 2074

To establish a procedure for the conveyance of certain Federal property around the Jamestown Reservoir in the State of North Dakota, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2017

Mr. HOEVEN (for himself and Ms. HEITKAMP) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 30, 2018

Reported by Ms. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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# A BILL

To establish a procedure for the conveyance of certain Federal property around the Jamestown Reservoir in the State of North Dakota, and for other purposes.

- 1       *Be it enacted by the Senate and House of Representa-*
- 2       *tives of the United States of America in Congress assembled,*
- 3       **SECTION 1. JAMESTOWN RESERVOIR LAND CONVEYANCES.**
- 4       (a) **DEFINITIONS.**—In this section:

1                   (1) **BOARD.**—The term “Board” means  
2                   Stutsman County Park Board in Jamestown, North  
3                   Dakota (or a successor in interest to that entity).

4                   (2) **FEDERAL LAND.**—The term “Federal land”  
5                   means the approximately 4,494.30 acres of Federal  
6                   land—

7                   (A) associated with the Jamestown Res-  
8                   ervoir;

9                   (B) managed by, or subject to a permit  
10                   of—

11                   (i) the Board;

12                   (ii) the State; or

13                   (iii) a permittee; and

14                   (C) as generally described in the manage-  
15                   ment agreement numbered 15-LM-60-2255  
16                   and entitled “Management Agreement between  
17                   the Bureau of Reclamation, et al., and the  
18                   Stutsman County Park Board for the Develop-  
19                   ment, Management, Operation, and Mainte-  
20                   nance of Lands and Recreation Facilities at  
21                   Jamestown Reservoir”.

22                   (3) **JAMESTOWN RESERVOIR.**—The term  
23                   “Jamestown Reservoir” means the Jamestown Res-  
24                   ervoir constructed as a unit of the Missouri Souris  
25                   Division, Pick-Sloan Missouri Basin Program, as au-

1       thorized by section 9 of the Act of December 22,  
2       1944 (commonly known as the “Flood Control Act  
3       of 1944”) (58 Stat. 891, chapter 665).

4           (4) PERMITTEE.—The term “permittee” means  
5       the holder (or any successor in interest to the hold-  
6       er) of a permit for a property.

7           (5) PROPERTY.—The term “property” means  
8       any cabin site located on Federal land for which a  
9       permit is in effect on the date of enactment of this  
10      Act.

11          (6) SECRETARY.—The term “Secretary” means  
12       the Secretary of the Interior, acting through the  
13       Commissioner of Reclamation.

14          (7) STATE.—The term “State” means the State  
15       of North Dakota, acting through the North Dakota  
16       Game and Fish Department.

17          (b) PURCHASE OF PROPERTY BY PERMITTEE;  
18       TRANSFERS TO BOARD AND STATE.—

19           (1) OPTION.—The Secretary shall provide to  
20       the permittee of a property the first option to pur-  
21       chase that property in accordance with paragraph  
22       (3) for fair market value, subject to the condition  
23       that the permittee shall pay to the Board any out-  
24       standing permit fees before the permittee may exer-  
25       cise the option to purchase.

1                   (2) DETERMINATION OF FAIR MARKET  
2        VALUE.—

3                   (A) IN GENERAL.—For purposes of this  
4        subsection, the fair market value of a property  
5        shall be determined by the Secretary—

6                   (i) using a local, third-party ap-  
7        praiser;

8                   (ii) in accordance with—

9                   (I) the Uniform Standards of  
10      Professional Appraisal Practice; and

11                   (II) the Uniform Appraisal  
12      Standards for Federal Land Acquisi-  
13      tion;

14                   (iii) to the extent appropriate in ac-  
15      cordance with the valuation policy of the  
16      Department of the Interior; and

17                   (iv) valuing the property as unim-  
18      proved residential property, excluding all  
19      improvements.

20                   (B) DISPUTES.—Any dispute regarding  
21      the fair market value of a property shall be re-  
22      solved in accordance with section 2201.4 of title  
23      43, Code of Federal Regulations (or successor  
24      regulations).

25                   (3) PURCHASE.—

1                             (A) IN GENERAL.—On an election by a  
2                             permittee to exercise the option to purchase a  
3                             property pursuant to paragraph (1), the Sec-  
4                             retary shall convey to the permittee, for fair  
5                             market value—

6                                 (i) all right, title, and interest of the  
7                             United States in and to the property, sub-  
8                             ject to valid existing rights and the oper-  
9                             ational requirements of the Jamestown  
10                            Reservoir; and

11                                 (ii) sole use, perpetual easements  
12                             for—

13                                 (I) vehicular access to the prop-  
14                             erty;

15                                 (II) access to, and use of, one or  
16                             more docks for the property;

17                                 (III) access to, and use of, all  
18                             boathouses, ramps, retaining walls,  
19                             and other improvements for which ac-  
20                             cess is provided in the permit for use  
21                             of the property as of the date of en-  
22                             actment of this Act; and

23                                 (IV) access to water for irriga-  
24                             tion with a water service contract.

(B) PERIOD FOR CONVEYANCE.—The Secretary shall convey to a permittee a property pursuant to subparagraph (A) during the period—

(i) beginning on the date of enactment  
of this Act; and

(ii) ending on the date that is 5 years after that date of enactment.

(4) TRANSFERS TO BOARD AND STATE.—

**(A) FAILURE TO PURCHASE.**

(i) IN GENERAL.—If a permittee fails to exercise the option to purchase a property under paragraph (3) by the date that is 5 years after the date of enactment of this Act, the Secretary shall transfer the property to the Board, subject to clause (ii), without cost.

(ii) SALE BY BOARD OF TRANSFERRED PROPERTY.—If the Board sells or enters into one or more agreements to sell a property transferred under clause (i) during the 3-year period beginning on the date of the transfer, the Board shall pay to the Secretary all proceeds of the sale that are in excess of the costs of the Board.

1                             (B) CERTAIN OTHER LAND.—Effective be-  
2                             ginning on the date that is 5 years after the  
3                             date of enactment of this Act, the Secretary  
4                             shall transfer—

5                                 (i) to the Board, without cost, Federal  
6                             land managed by the Board as of that date  
7                             of enactment, on which no cabin is located;  
8                             and

9                                 (ii) to the State, without cost, land  
10                             leased by the State as of that date of en-  
11                             actment.

12                             (c) OIL, GAS, MINERAL, AND OTHER OUTSTANDING  
13                             RIGHTS.—Each conveyance to a permittee, and each  
14                             transfer to the Board or State, pursuant to subsection (b)  
15                             shall be made subject to—

16                                 (1) oil, gas, and other mineral rights reserved  
17                             of record, as of the date of enactment of this Act,  
18                             by, or in favor of, the United States or a third  
19                             party;

20                                 (2) any permit, license, lease, right-of-use, flow-  
21                             age easement, or right-of-way of record in, on, over,  
22                             or across the applicable property or Federal land,  
23                             whether owned by the United States or a third  
24                             party, as of the date of enactment of this Act;

1                             (3) any reversion back to the United States of  
2 land (other than land described in subsection  
3 (b)(4)(A)(i) or land transferred under subsection  
4 (b)(4)(B)(i) that is designated by the Secretary as  
5 a recreation area as of the date of enactment of this  
6 Act) transferred to the Board or State under sub-  
7 section (b), if the applicable property is no longer  
8 used for the purpose of public access or recreation;  
9 and

10                           (4) any flowage easement reserved by the  
11 United States to allow full operation of Jamestown  
12 Reservoir for authorized purposes.

13                           **(d) LIABILITY; TAKING.—**

14                           **(1) LIABILITY.**—The United States shall not be  
15 liable for flood damage to the property of a per-  
16 mittee, the Board, or the State, or for damages aris-  
17 ing out of any act, omission, or occurrence relating  
18 to a lot to which a permit applies, other than for  
19 damages caused by an act or omission of the United  
20 States or an employee, agent, or contractor of the  
21 United States before the date of enactment of this  
22 Act.

23                           **(2) TAKING.**—Any temporary flooding or flood  
24 damage to the property of a permittee, the Board,

1       or the State, shall not be considered to be a taking  
2       by the United States.

3           (e) REQUIREMENTS RELATING TO CONVEYANCES  
4       AND TRANSFERS.—

5           (1) INTERIM REQUIREMENTS.—During the pe-  
6       riod beginning on the date of enactment of this Act  
7       and ending on the date of conveyance or transfer of  
8       a property or land, the provisions of the manage-  
9       ment agreement referred to in subsection (a)(2)(C)  
10      that are applicable to the property or land, or to  
11      leases between the State and the Secretary, shall re-  
12      main in force and effect.

13           (2) LEGAL DESCRIPTIONS.—Not later than 2  
14      years after the date of enactment of this Act, the  
15      Secretary, in consultation with the Board and the  
16      State, shall provide to the Board, the State, and  
17      each applicable permittee a legal description of all  
18      properties and land that may be conveyed or trans-  
19      ferred pursuant to this section.

20           (3) RESTRICTION ON CONVEYANCE.—Effective  
21      beginning on the date of enactment of this Act—

22                  (A) a permittee may not build any new  
23      permanent structure below a flood pool ele-  
24      vation of 1,454 feet; and

1                             (B) if a permittee builds a structure de-  
2                             scribed in subparagraph (A), the property of  
3                             the permittee shall revert to the Board.

4                             (f) PROCEEDS FROM SALES OF FEDERAL LAND.—

5                             Any revenues from a sale of Federal land pursuant to this  
6                             section shall be made available to the Secretary, without  
7                             further appropriation, for—

8                                 (1) the costs to the Secretary of carrying out  
9                             this section, including any costs of carrying out sub-  
10                             sections (b)(2)(A) and (e)(2); and

11                                 (2) deferred maintenance activities relating to  
12                             the operation of the dam in the Jamestown Res-  
13                             ervoir.

14                             **SECTION 1. DEFINITIONS.**

15                             In this Act:

16                                 (1) *BOARD*.—The term “Board” means the  
17                             Stutsman County Park Board in Jamestown, North  
18                             Dakota.

19                                 (2) *GAME AND FISH HEADQUARTERS*.—The term  
20                             “game and fish headquarters” means the land de-  
21                             picted as “Game and Fish Headquarters” on the  
22                             Map.

23                                 (3) *JAMESTOWN RESERVOIR*.—The term “James-  
24                             town Reservoir” means the Jamestown Reservoir con-  
25                             structed as a unit of the Missouri-Souris Division,

1       *Pick-Sloan Missouri Basin Program, as authorized*  
2       *by section 9 of the Act of December 22, 1944 (com-*  
3       *monly known as the “Flood Control Act of 1944”)* (58  
4       *Stat. 891, chapter 665).*

5                 (4) *MANAGEMENT AGREEMENT.*—The term  
6       “Management Agreement” means the management  
7       agreement entitled “Management Agreement between  
8       the United States of America and Stutsman County  
9       Park Board for the Management, Development, Oper-  
10       ation and Maintenance of Recreation and Related  
11       Improvements and Facilities at Jamestown Reservoir  
12       Stutsman County, North Dakota”, numbered 15-LM-  
13       60–2255, and dated February 17, 2015.

14                 (5) *MAP.*—The term “Map” means the map pre-  
15       pared by the Bureau of Reclamation, entitled “James-  
16       town Reservoir”, and dated May 2018.

17                 (6) *PERMITTED CABIN LAND.*—The term “per-  
18       mitted cabin land” means the land depicted as “Per-  
19       mitted Cabin Lands” on the Map.

20                 (7) *PROPERTY.*—The term “property” means  
21       any cabin site located on permitted cabin land for  
22       which a permit is in effect on the date of enactment  
23       of this Act.

1                   (8) *RECREATION LAND.*—The term “recreation  
2       *land*” means the land depicted as “Recreation and  
3       *Public Purpose Lands*” on the Map.

4                   (9) *SECRETARY.*—The term “Secretary” means  
5       *the Secretary of the Interior, acting through the Com-*  
6       *missioner of Reclamation.*

7                   (10) *STATE.*—The term “State” means the State  
8       *of North Dakota, acting through the North Dakota*  
9       *Game and Fish Department.*

10 **SEC. 2. CONVEYANCES TO STUTSMAN COUNTY PARK  
11                   BOARD.**

12                   (a) **CONVEYANCES TO STUTSMAN COUNTY PARK  
13                   BOARD.—**

14                   (1) *IN GENERAL.*—Subject to the management re-  
15       *quirements of paragraph (3) and the easements and*  
16       *reservations under section 4, not later than 5 years*  
17       *after the date of enactment of this Act, the Secretary*  
18       *shall convey to the Board all right, title, and interest*  
19       *of the United States in and to—*

- 20                   (A) *the recreation land; and*  
21                   (B) *the permitted cabin land.*

22                   (2) **COSTS.—**

23                   (A) *IN GENERAL.*—Except as provided in  
24       *subparagraph (B), the Secretary shall convey the*  
25       *land described in paragraph (1) at no cost.*

1                             (B) *TITLE TRANSFER; LAND SURVEYS.*—As  
2                             *a condition of the conveyances under paragraph*  
3                             *(1), the Board shall agree to pay all survey and*  
4                             *other administrative costs necessary for the prep-*  
5                             *aration and completion of any patents for, and*  
6                             *transfers of title to, the land described in para-*  
7                             *graph (1).*

8                             (3) *MANAGEMENT.*—

9                             (A) *RECREATION LAND.*—The Board shall  
10                             *manage the recreation land conveyed under*  
11                             *paragraph (1)—*

12                             (i) *for recreation and public purposes*  
13                             *consistent with the Act of June 14, 1926*  
14                             *(commonly known as the “Recreation and*  
15                             *Public Purposes Act”) (44 Stat. 741, chap-*  
16                             *ter 578; 43 U.S.C. 869 et seq.);*

17                             (ii) *for public access;*

18                             (iii) *for fish and wildlife habitat; or*

19                             (iv) *to preserve the natural character*  
20                             *of the recreation land.*

21                             (B) *PERMITTED CABIN LAND.*—The Board  
22                             *shall manage the permitted cabin land conveyed*  
23                             *under paragraph (1)—*

(i) for cabins or recreational residences in existence as of the date of enactment of this Act; or

(ii) for any of the recreation land management purposes described in subparagraph (A).

(b) *REVERSION.*—If a parcel of land conveyed under subparagraph (A) or (B) of subsection (a)(1) is used in a manner that is inconsistent with the requirements described in subparagraph (A) or (B), respectively, of subsection (a)(3), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

**21 (c) SALE OF PERMITTED CABIN LAND BY BOARD.—**

22                   (1) *IN GENERAL.*—If the Board sells any parcel  
23                   of permitted cabin land conveyed under subsection  
24                   (a)(1)(B), the parcel shall be sold at fair market  
25                   value, as determined by a third-party appraiser in

1       *accordance with the Uniform Standards of Profes-*  
2       *sional Appraisal Practice, subject to paragraph (2).*

3           (2) *IMPROVEMENTS.—For purposes of an ap-*  
4       *praisal conducted under paragraph (1), any improve-*  
5       *ments on the permitted cabin land made by a permit*  
6       *holder shall not be included in the appraised value of*  
7       *the land.*

8           (3) *PROCEEDS FROM THE SALE OF LAND BY THE*  
9       *BOARD.—If the Board sells a parcel of permitted*  
10      *cabin land conveyed under subsection (a)(1)(B), the*  
11      *Board shall pay to the Secretary the amount of any*  
12      *proceeds of the sale that exceed the costs of preparing*  
13      *the sale by the Board.*

14          (d) *AVAILABILITY OF FUNDS TO THE SECRETARY.—*  
15      *Any amounts paid to the Secretary for land conveyed by*  
16      *the Secretary under this Act shall be made available to the*  
17      *Secretary, without further appropriation, for activities re-*  
18      *lating to the operation of the Jamestown Dam and Res-*  
19      *ervoir.*

20      **SEC. 3. CONVEYANCE OF GAME AND FISH HEADQUARTERS**  
21                   **TO THE STATE.**

22          (a) *CONVEYANCE OF GAME AND FISH HEAD-*  
23      *QUARTERS.—Not later than 5 years after the date of enact-*  
24      *ment of this Act, the Secretary shall convey to the State*  
25      *all right, title, and interest of the United States in and to*

1 the game and fish headquarters, on the condition that the  
2 game and fish headquarters continue to be used as a game  
3 and fish headquarters or substantially similar purposes.

(b) *REVERSION.*—If land conveyed under subsection (a) is used in a manner that is inconsistent with the requirements described in that subsection, the land shall, at the discretion of the Secretary, revert to the United States.

8 SEC. 4. RESERVATIONS, EASEMENTS, AND OTHER OUT-  
9 ***STANDING RIGHTS.***

10       (a) *IN GENERAL.*—Each conveyance to the Board or  
11 the State pursuant to this Act shall be made subject to—

## 12 (1) valid existing rights;

22                   (4) reservations described in the Management  
23                   Agreement;

1                   (5) oil, gas, and other mineral rights reserved of  
2 record, as of the date of enactment of this Act, by, or  
3 in favor of, the United States or a third party;

4                   (6) any permit, license, lease, right-of-use, flow-  
5 age easement, or right-of-way of record in, on, over,  
6 or across the applicable property or Federal land,  
7 whether owned by the United States or a third party,  
8 as of the date of enactment of this Act;

9                   (7) a deed restriction that prohibits building any  
10 new permanent structure on property below an ele-  
11 vation of 1,454 feet; and

12                   (8) the granting of applicable easements for—

13                   (A) vehicular access to the property; and

14                   (B) access to, and use of, all docks, boat-  
15 houses, ramps, retaining walls, and other im-  
16 provements for which access is provided in the  
17 permit for use of the property as of the date of  
18 enactment of this Act.

19                   (b) *LIABILITY; TAKING.*—

20                   (1) *LIABILITY.*—The United States shall not be  
21 liable for flood damage to a property subject to a per-  
22 mit, the Board, or the State, or for damages arising  
23 out of any act, omission, or occurrence relating to a  
24 permit holder, the Board, or the State, other than for  
25 damages caused by an act or omission of the United

1       *States or an employee, agent, or contractor of the*  
2       *United States before the date of enactment of this Act.*

3           *(2) TAKING.—Any temporary flooding or flood*  
4       *damage to the property of a permit holder, the Board,*  
5       *or the State, shall not be considered to be a taking by*  
6       *the United States.*

7   **SEC. 5. INTERIM REQUIREMENTS.**

8       *During the period beginning on the date of enactment*  
9       *of this Act and ending on the date of conveyance of a prop-*  
10      *erty or parcel of land under this Act, the provisions of the*  
11      *Management Agreement that are applicable to the property*  
12      *or land, or to leases between the State and the Secretary,*  
13      *and any applicable permits, shall remain in force and ef-*  
14      *fect.*



**Calendar No. 537**

115<sup>TH</sup> CONGRESS  
2D SESSION  
**S. 2074**

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**A BILL**

To establish a procedure for the conveyance of certain Federal property around the Jamestown Reservoir in the State of North Dakota, and for other purposes.

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JULY 30, 2018

Reported with an amendment